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Levi Holds No President May Order Assassination

By JOHN M. CREWDSON

Special to The New York Times

WASHINGTON, June 8—Attorney General Edward H. Levi said today that it was not within the constitutional authority of the President of the United States to order the assassination of foreign heads of state.

The question of the full extent of the President's implied constitutional powers, Mr. Levi cautioned, is a "complicated" one, and he suggested that extenuating factors influencing the national security would have to be taken into account.

But he declared, "I think it is important in terms of the morality of our country, our way of life and the things we believe in, to say that it really is beyond the power of the President to order assassination."

The Attorney General emphasized that he was not suggesting that Presidents Eisenhower and Kennedy, under

whose Administrations the possibility of such assassination plots was reportedly considered, had violated state or Federal laws. "A consideration of alternatives is not the same thing as ordering the violation," he said.

"Wait and See" Attitude

But he left open the question of whether any of the living subordinates of the two dead leaders who might have been involved in drawing up and attempting to implement such schemes might be subjected to a criminal investigation by the Justice Department.

That prospect, Mr. Levi said, would depend on "how many steps were taken," and to what extent the plots went beyond "the talking stage."

The Department of Justice, he said, would "wait and see"

what evidence on the topic of assassinations was forthcoming from different sources, including the Rockefeller commission before the possibility of legal action against Central Intelligence Agency officials or others was considered.

Mr. Levi also disclosed, under questioning on the ABC television program "Issues and Answers," that he had not yet received a copy of the report of the President's commission looking into allegedly illegal C.I.A. activities, headed by Vice President Rockefeller.

But he added that he was "quite sure that any material which will be relevant on a violation of law will be given to the Department of Justice."

President Ford is expected to announce at a news conference scheduled for 7:30 P.M. Eastern daylight time tomorrow that he will release to the public those portions of the 300-page report that do not deal with alleged official attempts at foreign assassinations.

Administration officials have suggested that the chapter on what reportedly were C.I.A.-inspired schemes to assassinate Premier Castro of Cuba and possibly other foreign leaders, might be turned over by Mr. Ford to a Senate select committee that is inquiring into American Intelligence operations.

The Rockefeller commission concluded its five-month investigation of the C.I.A.'s domestic activities and the purported attempts at assassination early last week. The panel's full report was handed to Mr. Ford by the Vice President on Friday.

Mr. Ford's decision not to release the material on assassination attempts, the facet of the investigation that has provoked the most public comment thus far, came as a surprise to many who had been following the commission's activities.

Frank Mankiewicz and Adam Walinsky, two former aides to the late Robert F. Kennedy, accused the commission's staff today of having "hinted, leaked, winked and alleged" that C.I.A. plots to assassinate Mr. Castro had been "countenanced or even authorized and approved" by President Kennedy or his

brother, who served as his Attorney General.

Mr. Mankiewicz and Mr. Walinsky said that Mr. Ford's decision against making public the assassination material was "a hit and run smear" on the reputations of the two dead men.

A spokesman for Open America, a self-styled public interest group in Washington, made a formal request yesterday for the full report. The request was made in accordance with the Freedom of Information Act.

The Attorney General said today that his response to such a request would depend "on the nature of what is in the report," and that it would not be turned over under the Freedom of Information Act if its contents bore on an ongoing criminal investigation.

The Justice Department, at President Ford's request, has been looking into the possibility that Federal statutes were violated by C.I.A. employees in connection with some of the agency's recently disclosed activities directed at American citizens, such as the opening of mail, domestic wiretapping and the monitoring of political dissent.

Mr. Levi declined to say today at what stage that investigation stood, but Justice Department officials who are familiar with its general focus have said that little, if any, clearcut evidence of criminal wrongdoing by C.I.A. agents has thus far been uncovered.

On a related issue, Mr. Levi suggested that he might be inclined to permit investigators for the Senate Select Committee on Intelligence Activities to examine "raw," or unevaluated, file of the Federal Bureau of Investigation if he was convinced that their confidentiality could be protected.

The Attorney General has previously cited refusals by his predecessors to make such files available to committees of Congress in expressing his concern about the Justice Department's responsibility to guard against their unauthorized disclosure.

Mr. Levi reiterated, today, however, that he had refused a request from a House judiciary subcommittee that auditors for the General Accounting Office be permitted to examine the F.B.I.'s intelligence files on a random basis, so as to gauge their contents.

He would "seriously consider," he said, such a request from the Senate select committee or another body for such files if they were forthcoming, but he added, "I don't know whether they are going to demand to see the raw files."

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